

# Gregory Zimmer, Esq.

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## **VIA ECF**

Honorable Debra Freeman, U.S. Magistrate Judge  
United States District Court  
Southern District of New York  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl St.  
New York, NY 10007-1312

Re: In re Navidea Biopharmaceuticals Litigation, Case No. 19-cv-01578-VEC

Dear Judge Freeman:

As the Court is aware, I represent Defendant/Counterclaim Plaintiff/Third-Party Complaint Plaintiff Michael M. Goldberg, M.D. (“Dr. Goldberg”) in the above-referenced action. We write to request that the Court review and rule on the proposed Order in regarding going-forward advancement of Dr. Goldberg’s attorneys’ fees and expenses in connection with defending the claims asserted against him by Plaintiff/Counterclaim Defendant Navidea Biopharmaceuticals, Inc. (“Navidea”) in this action. The Court had indicated it would rule on the proposed Order once it became known whether Navidea objected to the hourly rates being charged by Dr. Goldberg’s counsel, N. Ari Weisbrot, Esq. and the undersigned. Navidea confirmed in its submission responding to Dr. Goldberg’s initial fee application on November 6, 2020 [Dkt. No. 155] that it does not object to those rates. By letter dated December 7, 2020 we respectfully requested that the Court take action on the proposed order given that a full month had expired since the Court was provided with the information it had stated was required to implement the protocol. It has now been another month and we respectfully suggest that any further delay would be inappropriate given that Judge Caproni ordered that the protocol be implemented in an Opinion and Order dated August 24, 2020 [Dkt. No. 134]. The purpose of the protocol was to give meaning to your Report and Recommendation regarding advancement and Judge Caproni’s Opinion and Order. The approximately 5 month delay has already defeated the purpose of both. Any further delay in implementing the going-forward protocol would make a mockery of the concept.

Per the protocol set forth in the Report and Recommendation and the Court’s Opinion and Order we have presented requests for advancement supported by complete billing records and

Honorable Debra Freeman, U.S. Magistrate Judge

January 8, 2021

Page 2

detailed calculations to Navidea's counsel for every month beginning with September 2020, the first month billed after the Opinion and Order was entered.

Thank for your attention to this matter.

Respectfully submitted,

/s/ Gregory Zimmer, Esq.